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10/643,626	08/19/2003	David G. Mann	WOOSP0131US	4453

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EXAMINER

SPISICH, MARK

ART UNIT	PAPER NUMBER
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1744

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/643,626
Filing Date: August 19, 2003
Appellant(s): MANN, DAVID G.

Donald L. Otto
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 22 June 2005 appealing from the Office action mailed 25 February 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Appellant also indicated that there are NO related appeals or interferences.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welt (USP 3,394,425) in view of Passafiume (USP 6,119,303). The patent to Welt discloses a paint roller grid (12) including a wiping surface (14) and further including at least one rearwardly extending hook (32,34) for hooking over an upper rim (52) of a container (56) and further including a pair of laterally spaced feet (24,26) for engagement with an inner surface of the container. The patent to Welt discloses the invention substantially as claimed with the exception of the frame. The patent to Passafiume discloses a roller wiper/grid (14) including a frame (24,26,etc). It would have been obvious to one of ordinary skill to have provided such a frame to the device of Welt to provide added rigidity. It is noted that claim 13 has been amended to recite that the feet are rigidly affixed with respect to the frame/grid, while the patent to Welt discloses that the feet and hooks are rotatably secured to the grid. The patent to Passafiume discloses that the hooks (45,46) of a roller grid may be rigidly fixed with respect to the grid. In addition, the purpose of the rotating feet/hooks in Welt is to accommodate different sized containers; while many of the grids in the public domain are fixed and generally for use with a 5 gallon bucket or a predetermined size. It would

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have been obvious to one of ordinary skill to have fixed to feet/hooks of Welt to match a common size bucket. As the container is not positively recited, the patent to Welt also meets claim 16.

(10) Response to Argument

As stated above, the patent to Welt (USP 3,394,425) discloses a paint roller grid (12) including a perforated wiping surface for removing excess paint from a roller and which includes at least one hook (32,34) extending rearwardly from the grid for hooking over an upper rim (52) of a container (56) (see figure 3) and a pair of laterally spaced feet (24,26) rearwardly extending from a bottom edge of the grid for engagement with an inner cylindrical surface of the container. The issue with regard to claim 12 lies with the recitation (in line 2) of "a frame extending completely around the wiping surface". As also discussed above, the patent to Passafiume (USP 6,119,303) discloses a paint roller grid (10) for use with a container (90) and which includes a surface (18) for removing excess paint from a roller and which surface is completely surrounded by a frame (22,24,26) (see figure 2). It is the position of the examiner that one of ordinary skill would deem it obvious to have provided the device of Welt with a frame as taught by Passafiume for the purpose of providing more rigidity to the grid or even to reduce the chance of snagging the edges of the metal grid of Welt. The patent to Passafiume is cited solely for its teaching of providing a frame around the roller-engaging surface. Appellant essentially takes the position that one of ordinary skill would not provide such a frame to the grid of Welt in that Welt discloses the movable hooks and feet. The provision of such a frame to the device of Welt is not intended to contradict the teaching

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of Welt, but is instead merely the provision of a rigid frame there around. The provision of such a structure need not eliminate the function or operability of the hooks and feet of Welt. In other words, one of ordinary skill could easily provide a reinforcing frame around the grid of Welt without eliminating the movement of the hooks and feet of Welt. With regard to the hook(s) and feet extending rearwardly from the **frame** (emphasis added), such would be the case if one were to provide the device with a frame around the grid thereof. With regard to the recitation of "rigidly" in claim 13, the hook and feet of Welt are non-removably connected to the grid and are movable (see figure 1 and column 2, lines 7-32) so as to allow the grid to be engaged with different containers. The provision of fixed hooks/feet would, to one of ordinary skill, be obvious in order to simply be used with a particular size container. It is also pointed out that Passafiume teaches that the container engaging hooks (50,52) may be rigidly fixed relative to the roller engaging surface that Passafiume was not selected as the "base" reference because it did not have the pair of laterally spaced feet (even though it does have a portion which engages the inner surface of the container). The hooks and feet of Welt are adapted to assume various orientations, including the relative directional orientation (rearwardly and inwardly) of claim 14. With regard to claim 16, it is pointed out that this particular **claim is drawn to the sub-combination** of a roller grid and **NOT** to the combination with the paint container. Thus, the recitation of the comparative height of the grid and the container is noted but does not define over the structure of the prior art.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Mark Spisich



Primary Examiner

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Conferees:

Patrick Ryan



John Kim

